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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,363	02/04/2000	Yves Naoumenko	146493US6	8719
22850 7590 06/06/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER FERGUSON, LAWRENCE D	
			ART UNIT 1774	PAPER NUMBER
			NOTIFICATION DATE 06/06/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

09/498,363

Applicant(s)

NAOUMENKO ET AL.

Examiner

Lawrence D. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10 and 12-19 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the amendment mailed January 21, 2003.

A Notice of Appeal is not a proper submission under a request for continued examination (RCE) under 37 CFR 1.114; however, the new arguments of the Appeal Brief filed January 21, 2003, can be a submission and will be considered in this instance. Prosecution is reopened and arguments in the Appeal Brief filed on January 21, 2003, have been considered. Claims 1-7 and 10-19 are pending in this case.

### ***Claim Rejections – 35 USC § 103(a)***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 10 and 12-19 are rejected under 35 U.S.C. 103(a) as being obvious over De Paoli (U.S. 5,132,162) in view of Rothe et al (U.S. 5,137,770).

De Paoli teaches a laminated glazing for a window, which includes two or more sheets of rigid glass and an interlayer material (abstract and column 2, lines 25-27) where the interlayer material comprises polyvinyl butyral layer (23) which is an adhesive layer and a polymeric layer (22) which is an intermediate element at least partially

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covering the intercalated adhesive layer (column 3, lines 38-40; column 5, lines 28-36 and Figure 4). The glazing can exhibit a structure with an offset edge to be able to be mounted in a known way that is flush with the body as applicant instantly claims (column 3, lines 52-54). De Paoli does not disclose the adhesive layer extends over a portion of the first glass sheet or that the intermediate element totally covers the adhesive. It would have been obvious to one of ordinary skill in the art to adjust the adhesive layer and intermediate layer to extend over a portion of at least the exposed edge portion of the first glass sheet, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954).

The difference between the reference and the application is that the reference does not teach that a cement element can be adhered to the intermediate element for securing the glazing to the body or that the intermediate element is made of aluminum, stainless steel, epoxy or phenolic, unsaturated polyester resin containing reinforcement fillers. Rothe teaches the benefit of adding cement to a laminated glazing having glass panes for improvement of water tightness (column 1, lines 26-29). This is a conventional application as explained by Rothe in paragraphs 2-4 of column 1. Rothe also teaches that the intermediate element can be made of metals such as aluminum and steel (column 11, lines 1-6). The Rothe reference further includes the use of glass fiber strengthened plastics as reinforcing materials and uses adhesive to adhere the cement to the other layers. The laminated glazing of the combined references can be applied to windows, such as those in automobiles or plane cockpits. The intermediate element of

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Rothe shows the same intermediate elements as applicant claims and provides the same tensile strength (column 13, lines 53-60). It would have been obvious to one of ordinary skill in the art to make the glazing of De Paoli provided with the intermediate element and cement of Rothe because Rothe shows the use of the cement to be conventional and shows it is used for improving the water tightness of the laminated material. It is also obvious to use the intermediate elements in Rothe in place of those used by De Paoli, as those cited in Rothe are conventional and the benefits of using them are well known.

4. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art does not teach or suggest the recited laminating glazing further including wherein the porosity of the material constituting the intermediate element corresponds to a water recovery at least equal to 30 g/day/m<sup>2</sup> for a 3mm thick intermediate element. The prior art does not teach motivation or suggestion for modification to make the invention as instantly claimed.

### ***Response to Arguments***

5. Applicant's arguments of rejection under 35 USC 103(a) over De Paoli (U.S. 5,132,162) in view of Roth et al. (U.S. 5,137,770) have been fully considered but are unpersuasive. Applicant argues neither reference teaches an intercalated adhesive layer extending over at least a portion of an exposed edge of a transparent sheet, which

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exposed edge is provided by an offset, together with an intermediate element at least partially covering the intercalated layer at the exposed edge. Although De Paoli does not disclose the adhesive layer extends over a portion of the first glass sheet or that the intermediate element totally covers the adhesive, it would have been obvious to one of ordinary skill in the art to adjust the adhesive layer and intermediate layer to extend over a portion of at least the exposed edge portion of the first glass sheet, since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954). Applicant further argues De Paoli lacks the claimed intermediate element at least partially covering the intercalated adhesive layer at the exposed edge. De Paoli teaches a laminated glazing for a window, which includes two or more sheets of rigid glass and an interlayer material (abstract and column 2, lines 25-27) where the interlayer material comprises polyvinyl butyral layer (23) which is an adhesive layer and a polymeric layer (22) which is an intermediate element at least partially covering the intercalated adhesive layer (column 3, lines 38-40; column 5, lines 28-36 and Figure 4). Applicant argues Rothe does not disclose the first and second transparent sheets being offset in relation. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Additionally, In response to applicant's argument that there is no offset in Rothe et al whatsoever, the test for obviousness is not whether the features of a secondary reference may be bodily

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incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). De Paoli teaches the first and second transparent sheets being offset in relation (column 3, lines 52-54).

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is 571-272-1522. The examiner can normally be reached on Monday through Friday 9:00 AM – 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



L. Ferguson  
Patent Examiner  
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